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10/520,114	01/03/2005	Hugues Gabriel	0518-1083-1	9443

466 7590 01/29/2007  
YOUNG & THOMPSON  
745 SOUTH 23RD STREET  
2ND FLOOR  
ARLINGTON, VA 22202

EXAMINER
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JAHANGIR, KABIR U

ART UNIT	PAPER NUMBER
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2109

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/29/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

10/520,114

Applicant(s)

GABRIEL ET AL.

Examiner

Kabir Jahangir

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION*****Specification Objection***

The abstract should be a conventional paragraph and should not contain characters that cannot be captured and recorded in the Office's automated information systems may not be reflected in the Office's records in such systems or in documents created by the Office. See MPEP 37 CFR 1.72. (a) and printed publication for reference.

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

**Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if

the required "Sequence Listing" is not submitted as an electronic document on compact disc).

### ***Claim Objections***

Claim 9 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot refer to more than one claim not in the alternative depending from 6 and 7. See MPEP § 608.01(n). Accordingly, the claim 9 is not been further treated on the merits.

### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 1-8 are rejected as they are directed to non-statutory subject matter. The invention is noted as software where the inventor is basically implementing the software in his claims. The applicant has never mentioned that software is stored in a tangible medium.

In Claim 1 the applicant mentioned that markets are stored in a database in line 14 and rules are stored in a database in line 15; it appears that a database can be software that leads the markets and rules are never really been stored in a tangible medium.

Claims 2 –8 fail to resolve the deficiencies of claim 1 also considered rejected as being depended from claim 1.

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3. Claims 1-8 are rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

4. Claim 10 is rejected as being adapted to use a non-statutory subject matter, in that it is a device claim depending from a process claim and have presented two categories of information.

#### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claim 2 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant did not specify all the possible combinations that would result from the language in line 6.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Process claim 1 does not set forth any steps involved in a process, hence, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

9. The term, "these types", in claim 2 line 6 is a relative term which renders the claim indefinite. The term "these type" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably appraised of the scope of the invention. It is not clear to the examiner which "types" the applicant is referring to.

10. The term, "content of the rule", in claim 7 line 11 is a relative term which renders the claim indefinite. The term "content of the rule" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably appraised of the scope of the invention. The "content of the rule" never been mentioned before, therefore, the examiner does not understand the meaning of the phrase.

11. The term, "agreeing market", in claim 8 line 3 is a relative term which renders the claim indefinite. The term "agreeing market" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably appraised of the scope of the invention. The "agreeing market" never been mentioned before, therefore, the examiner does not understand the meaning of the phrase.

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12. Claim 10 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 10 is too broad. Any system or device or hard drive or a CD/DVD media can adapt to use the process of claim 1.

***Claim Rejections - 35 USC § 102***

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

14. Claim 1-8 and 10 are rejected under 35 U.S.C. 102(a and b) as being anticipated by Cappellini, US 2003/0014286.

For claim 1, Cappellini teaches:

Process for storing and accessing data in databases of computerized travel reservation system in [0021], characterized by the fact that for each type of information be stored, there are created rules in [0028] and [0029] associating: a set of criteria in [0022] defining the trips to which the information is applicable, a content representing the value the information to be applied; the set of criteria rule comprising a pair of markets [0028] with a market of origin which defined as the geographic zone of

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departure of the trip and destination market which defined as the geographic zone of arrival of the trip in [0086], the defined markets are stored in a database in [0171], the created rules are stored in a database.

For claim 2, note the different zones of geographic area in [0152].

For claim 6, note that an additional criterion in [0384] to find its degree of importance.

For Claims 7-8 note that the most efficient way to solve complex problem in [0168] where the applicant is trying to find the lowest priority value.

For claim 10, note that the reservation process is stored in a tangible medium in [0114].

In addition, it shows how the data structure will be represented in [0117] and [0118].

### ***Claim Rejections - 35 USC § 103***

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. Claim 3-4 rejected under 35 U.S.C. 103(a) as set forth in Cappellini, 2003/0014286 in view of Champernowne, 2002/0143587.

Cappellini shows that how to find the best result in convenient time in [0168] using priority determination algorithm. But Cappellini never talks about priority of one geographical zone over another. However, Champernowne talks about priority queue in



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[0067] to find better solution, which is a similar technique to decrease the function of the precision of geographical zone. Moreover, in paragraph [0068] note that Champernowne is adding further information to find better solution where the applicant is adding the priority of the market of origin to the priority if the destination. So, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify search and retrieval system of transportation related flexibly defined paths of Cappellini to add a priority rank to the geographical zone.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kabir Jahangir whose telephone number is 571-270-1761. The examiner can normally be reached on Mon-Fri, 7:30am-5:00pm EST every other Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Deborah Reynolds can be reached on 571-272-4919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


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CHANH D. NGUYEN  
SUPERVISORY PATENT EXAMINER